

HB 1427 -- Public Privatization Contracts

Sponsor or Co-Sponsors: Hosmer, Marsh, Murphy, Lowe

Same as or similar to: HB 530 Year: 2001

Emergency Clause: or Effective Date of:

Use Summary For: Version:, Year:,

Verbatim:

Modify above as follows:

New summary as follows:

This bill regulates the use of privatization contracts by the state. The Department of Transportation; municipal fire departments who contract with private companies as contained in Section 85.012, RSMo; and public bodies who contract for architectural services, engineering services, or land surveying services are not covered.

Privatization contracts are agreements or a combination or series of agreements in which a non-governmental person or entity agrees with a public body to provide services valued at \$25,000 or more which could have been provided by regular employees of a public body. The bill:

(1) Creates the Public Service Accountability Act and prohibits public bodies from entering into privatization contracts, except under the conditions of the bill;

(2) Requires public bodies to solicit competitive sealed bids for privatization contracts based on a written proposal. Bid requirements are outlined in the bill;

(3) Requires contractors who enter into privatization contracts to compensate employees at the rate a state employee doing similar work would receive or the average private sector compensation rate, whichever is greater. The compensation must include the value of health insurance and other benefits;

(4) Limits privatization contracts to 2 years;

(5) Requires privatization contracts to contain a provision requiring the contractor to offer available positions to qualified public employees whose employment was terminated due to privatization contracts;

(6) Requires a nondiscrimination and equal opportunity provision in all privatization contracts;

(7) Prohibits public funds from being used to support or oppose unionization;

(8) Requires public bodies to prepare a comprehensive written estimate of the cost of using regular public employees before

considering privatization contracts. The estimate must include employee pension, insurance, and other benefits;

(9) Requires a public body to consider a contractor's past performance and its record of compliance with federal, state, and local laws before awarding the contract;

(10) Requires a public body to publicly designate the bidder that it proposes to award the privatization contract to;

(11) Requires a public body to prepare a comprehensive written privatization contract cost analysis;

(12) Requires a public body to certify in writing that all provisions of this law have been followed, the quality of services satisfies fiscal and quality requirements, the cost is 10% less than if the public body had completed the services, and the privatization contract is in the public's best interest;

(13) Prohibits a privatization contractor from subcontracting without the approval of a public body;

(14) Requires privatization contractors and subcontractors to file an annual financial audit with a public body;

(15) Requires that a public body have reasonable access to privatization contractors' project financial records, facilities, and employees;

(16) Requires the privatization contractor to submit a report, at least annually, detailing progress and quality of the project. The contractor must also submit a report of its compliance with all federal, state, and local laws and citations, complaints, or findings issued by an administrative agency or court;

(17) Allows a public body to seek contractual remedies for any violation of the privatization contract. Other persons or entities are also allowed to bring a claim against a contractor for certain violations of this act;

(18) Restricts ownership rights or interest in any public record by a privatization contractor and requires public bodies and contractors to comply with all open records laws;

(19) Restricts the use of privatization contract records and contract records of a public body. The bill outlines remedies which may be taken for violation of these restrictions;

(20) Prohibits retaliation against any public employee or private contractor employee who, acting in good faith, discloses

information or participates in any investigation or proceedings against any governmental entity relating to a violation of a privatization contract. The identity of any employee complaining in good faith to a public body or elected official about a violation of a privatization contract will be confidential; and

(21) Requires private contractors to post provisions of the privatization contract law and information pertaining to the filing of a charge for the violation of certain provisions of the act.